

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED  
SCHOOL DISTRICT.

OAH CASE NOS. 2010090212 and  
2010100932

ORDER DENYING STUDENT'S  
MOTION TO RESET HEARING  
DATES

On September 2, 2010, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing which named the Saddleback Valley Unified School District (District). OAH assigned the Student complaint Case No. 2010090212.

On October 18, 2010, the District filed with OAH a Request for Due Process which named Student. OAH assigned the District complaint Case No. 2010100932.

On November 5, 2010, OAH granted a stipulated request to consolidate Case Nos. 2010090212 and 2010100932. The order made the lead case in terms of the decision timeline for the consolidated matters Student's complaint, Case No. 2010090212. The order also set the following hearing dates for the consolidated cases: a prehearing conference on January 5, 2011, and a due process hearing on January 18, 19, 20 and 24, 2011.

On December 20, 2010, counsel for Student filed with OAH a Motion to Amend Due Process Complaint. The motion contended, in pertinent part, that "Student's placement has changed and the issue of reimbursement for the new issue has arisen. In the interest of having this issue fully litigated, and to avoid the judicial cost of filing another complaint with a request for consolidation, Student instead asks that he (sic) be allowed to amend the current Complaint." The District did not oppose this motion.

On December 29, 2010, OAH granted the Student's Motion to Amend Due Process Complaint. The order stated in part: "The amended complaint shall be deemed filed on the date of this order and shall continue to be consolidated with the District's complaint. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates for hearing in this consolidated matter."

On December 30, 2010, OAH issued a Scheduling Order in the consolidated cases that set the following dates: a mediation for February 3, 2011; a prehearing conference for February 16, 2011; and a due process hearing for February 23, 2011.

On January 10, 2011, counsel for Student filed with OAH a Motion to Set Hearing Dates, with supporting declarations. The motion seeks to reset the hearing dates in the consolidated matters for January 18, 19, 20 and 24, 2011, with the prehearing conference to be held on the first day of the hearing. The motion is based upon the fact that Student's witnesses are available on such dates.

On January 11, 2011, counsel for the District filed with OAH an Opposition to the Motion to Set Hearing Dates.

Counsel for Student is an experienced practitioner who knows that a procedural safeguard in special education law holds that when a pupil files an amended due process complaint, the applicable timelines recommence for holding a resolution session, conducting the hearing and issuing a decision. (20 U.S.C. § 1415(c)(2)(E)(ii); 34 C.F.R. § 300.508(d)(4)(2006); Ed. Code, § 56502, subd. (e).) Here, in the Motion to Amend Due Process Complaint, Student mentioned nothing about retaining the hearing dates on calendar at the time for the consolidated matters. In addition, granting the request to reset dates would prevent the parties from complying with the disclosure requirements set forth in California law. (Ed. Code, § 56505, subd. (e)(7).)

For these reasons, Student's Motion to Set Hearing Dates is denied, and the hearing dates in these consolidated cases remains as follows:

Mediation:	02/03/2011, at 9:30 a.m.
Trial Setting Conference:	N/A
Prehearing Conference:	02/16/2011, at 1:30 p.m.
Due Process Hearing:	02/23/2011. at 1:30 p.m.

IT IS SO ORDERED.

Dated: January 12, 2011

/s/

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TIMOTHY L. NEWLOVE  
Presiding Administrative Law Judge  
Office of Administrative Hearings